

UNITED STATES ARMY COURT OF CRIMINAL APPEALS

Before
YOB, LIND, KRAUSS
Appellate Military Judges

UNITED STATES, Appellee
v.
Specialist EDUARDITO DEHOYOS-GUASH
United States Army, Appellant

ARMY 20120894

Headquarters, Fort Stewart
Tiernan P. Dolan and Craig S. Denney, Military Judges
Lieutenant Colonel Francisco A. Vila, Staff Judge Advocate

For Appellant: Lieutenant Colonel Jonathan Potter, JA; Captain A. Jason Nef, JA;
Captain Robert A. Feldmeier, JA (on brief).

For Appellee: Lieutenant Colonel Amber J. Roach, JA; Captain Kenneth W.
Borgnino, JA (on brief).

28 August 2013

SUMMARY DISPOSITION

KRAUSS, Judge:

A military judge sitting as a special court-martial convicted appellant, pursuant to his pleas, of absence without leave (AWOL) in violation of Article 86, Uniform Code of Military Justice, 10 U.S.C. § 886 (2006) [hereinafter UCMJ]. Appellant was acquitted of a separate specification of AWOL. The military judge sentenced appellant to reduction to the grade of E-1, 90 days hard labor without confinement, and a bad-conduct discharge. The convening authority approved only the sentence to reduction to the grade of E-1 and a bad-conduct discharge.

This case is before this court for review under Article 66, UCMJ. Appellant complains that he was improperly subjected to hard labor without confinement and requests disapproval of the bad-conduct discharge as an appropriate remedy. The government concedes that appellant improperly suffered hard labor without confinement but asserts that disapproval of appellant's reduction in rank is an appropriate remedy. We agree with the government. *See* UCMJ art. 57(c); Rule for

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Courts-Martial 1113(a); *see also United States v. Collins*, 44 M.J. 830 (Army Ct. Crim. App. 1996).

After considering the entire record and the parties' briefs, the findings of guilty are AFFIRMED. This court affirms only so much of the sentence as provides for a bad-conduct discharge. All rights, privileges, and property, of which appellant has been deprived by virtue of that portion of the sentence set aside by this decision, are ordered restored. *See* UCMJ arts. 58b(c) and 75(a).

Senior Judge YOB and Judge LIND concur.



FOR THE COURT:

A handwritten signature in black ink, which appears to read "Malcolm H. Squires, Jr.".

MALCOLM H. SQUIRES, JR.
Clerk of Court